

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF MISSOURI**

WESTERN HERITAGE INSURANCE  
COMPANY,

Plaintiff,

v.

PARRISH LOVE d/b/a ASPHALT  
WIZARDS, FUN SERVICES OF KANSAS  
CITY, INC., DOES 1-50,

Defendants.

CASE NO. 4:13-CV-00034-DGK

**WESTERN HERITAGE’S MEMORANDUM REGARDING DISCOVERY ISSUES**

This Declaratory Relief action arises from a class action that Western Heritage (“WHIC”) is defending under a reservation of rights and in which Fun Services alleges WHIC’s insured sent thousands of faxes in violation of the TCPA, 47 USC §227. In this action, WHIC’s Interrogatories Nos. 3-8 and 15-19, and Requests for Production of Documents, Nos. 2-9 and 12-18 to Fun Services (*See Exhibits A & B*) seek information regarding fax recipients and faxes sent, which is relevant to WHIC’s duty to indemnify. WHIC owes no duty to indemnify if Fun Services cannot establish covered damages, and WHIC has an annual \$1,000 "per-claim"/per claimant deductible that must be satisfied before it owes coverage. Fun Services must establish the faxes violated the TCPA, who received them, when, and the fact of covered "damage" under the policies. This information is relevant and reasonably calculated to lead to the discovery of admissible evidence. *Rule 26(b)(1)*. Fun Services objected that this information is irrelevant and did not respond. Fun Services also objects, without basis, that the underlying case is the forum for these requests, not this action. Therefore, WHIC respectfully requests the Court overrule Fun Services’ objections and compel full and complete responses to the discover requests above.

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

I certify that on November 12, 2013, I electronically filed the foregoing document with the Court using the CM/ECF system, which sent notice of electronic filing to the following:

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